

REMARKS:

Previously withdrawn claims 12-33, 36, and 37 are hereby cancelled without prejudice.

Claims 1-11, 34, and 35 remain in the application for consideration.

Claims 1-11 stand rejected under 35 U.S.C. § 112, second paragraph. Claims 1-11, 34, and 35 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,338,067 to Baker, et al. These rejections are respectfully traversed for the reasons discussed below.

REJECTION UNDER 35 U.S.C. § 112:

Claims 1-11 stand rejected under 35 U.S.C. § 112, second paragraph.

The Office Action indicates that the reason for this rejection is a pair of phrases recited in claim 1: "seller database being one of a plurality of seller databases" and "all seller databases in the plurality of seller databases." The Office Action alleges that these two phrases render the scope unclear because they "improperly intermix a singular database in juxtaposition with a plurality of databases." This allegation is respectfully traversed.

There is no basis or authority cited for supporting the notion that it is improper to "intermix a singular database in juxtaposition with a plurality of databases." Thus, it is respectfully submitted that the allegation that "intermix[ing] a singular database in juxtaposition with a plurality of databases" renders the claim unclear is without merit.

Further, the phrases in question have been singled out without consideration for the context in which the phrases are presented within the claim. Note that MPEP 2173.02 instructs that "[i]n reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim *as a whole*...." (Emphasis added). The phrases in question are presented in claim 1 as follows:

a content enhancement module operable to:
analyze product data stored in a seller database using one or more

rules, the seller database being one of a plurality of seller databases, the rules comprising one or more generic rules applying to substantially all seller databases in the plurality of seller databases that store product data,

Thus, claim 1 recites a plurality of seller databases comprising a seller database ("the seller database being one of a plurality of seller databases"), the product data of the seller database being analyzed using one or more rules ("analyze product data stored in a seller database using one or more rules"), the one or more rules comprising one or generic rules that apply to substantially all of the plurality of seller databases ("the rules comprising one or more generic rules applying to substantially all seller databases in the plurality of seller databases that store product data"). It is respectfully submitted, therefore, that the claim is setting forth rules and generic rules, where the rules apply to a certain seller database that is one of plural databases whereas the generic rules apply to more than one database, and where the rules include one or more of the generic rules, and that this recitation would be at least reasonably clear to one of ordinary skill in the art.

In light of the above, it is respectfully submitted that claims 1-11 are fully compliant with the requirements of 35 U.S.C. § 112. Accordingly, it is respectfully requested that the rejection of claims 1-11 under 35 U.S.C. § 112 be reconsidered and withdrawn.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1-11, 34, and 35 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,338,067 to Baker, et al. ("Baker"). However, because Baker fails to disclose or suggest all of the limitations of claims 1-11, 34, and 35, Baker cannot render these claims obvious.

With respect to claim 1, this claim recites *inter alia*:

generic rules comprising one or more rules from the group consisting of:
a rule indicating that a potential error exists if two products in the seller database have identical product identifiers but have otherwise different product data;
a rule indicating that a potential error exists if two products in the seller database have different product identifiers but have otherwise identical product data; and

one or more rules indicating that a potential error exists if the values associated with particular generic product attributes have a non-numerical format;

Thus, claim 1 recites a plurality of rule, requiring that a set of generic rules comprise at least one of the recited rules. Claim 1 then further recites operability to “identify one or more potential errors in the product data according to the rules.”

In what Applicants assume is an attempt to address the above-cited limitations of claim 1, the Office Action alleges that “the system [disclosed in Baker] takes note of [a discrepancy] and corrects such.” (Office Action, page 3, lines 12-13) This allegation is respectfully traversed. It is first noted that no portion of Baker has been cited as disclosing a system that “takes note of [a discrepancy] and corrects such.” In addition, Applicants’ review of Baker uncovered no such disclosure. Thus, it is respectfully requested that the salient portions of Baker be more specifically pointed out or the rejection be withdrawn.

Even assuming *arguendo* that Baker did disclose a system that “takes note of [a discrepancy] and corrects such” (although no such concession is being made), the general concept of noting and correcting discrepancies would be inadequate for rendering obvious the specific rules recited in claim 1.

Since Baker does not disclose or suggest rules for taking note of and correcting a discrepancy as alleged in the Office Action, the allegation that it would have been obvious for one of ordinary skill in the art to use such rules to indicate a potential error is respectfully traversed.

The Office Action includes no explicit taking of Official Notice. However, if the Examiner intends to rely of Official Notice with respect to any of the limitations of the claims, then it is respectfully requested that the Examiner provide evidence to support the Official Notice.

With respect to dependent claims 2-11, since these claims depend from independent claim 1, the discussion above applies equally to claims 2-11. Accordingly,

claims 2-11 cannot be rendered obvious by Baker for at least the reasons discussed above in connection with claim 1.

Thus, claims 1-11 are considered patentably distinguishable over Baker for at least the reasons discussed above.

With respect to claim 34, this claim recites “means for analyzing the product data stored in a seller database using one or more rules; and means for identifying one or more potential errors in the product data according to the rules.” As discussed above, Baker fails to disclose or suggest these limitations. Accordingly, Baker cannot render claim 34 obvious.

Thus, claim 34 is considered patentably distinguishable over Baker for at least the reasons discussed above.

With respect to claim 35, this claim recites “a search interface operable to communicate a search query for product data to a seller database.” Baker fails to disclose or suggest this limitation. It is noted that the Office Action fails to even allege that Baker fails to disclose or suggest this limitation.

Claim 35 also recites “identify one or more potential errors in the product data by determining the product data that is included in the results of one or more of the search queries; and communicate the potential errors to a seller associated with the seller database.” Baker fails to disclose or suggest identifying potential errors base on product data included in search results. It necessarily follows that Baker also fails to disclose or suggest communicating such potential errors.

Thus, claim 35 is considered patentably distinguishable over Baker for at least the reasons discussed above.

In light of the discussion above, it is respectfully submitted that claims 1-11, 34, and 35 are in condition for allowance. Accordingly, Applicants respectfully request that the rejection of claims 1-11, 34, and 35 under 35 U.S.C. § 103(a) be reconsidered and that claims 1-11, 34, and 35 be allowed.

THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:


In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicant believes no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

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